

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

RON PAGE, et al.,

§

Plaintiffs,

§

v.

§ Civil Action No. H-12-2093

NOVA HEALTHCARE MANAGEMENT
L.L.P., et al.,

§

Defendants.

§

MEMORANDUM AND RECOMMENDATION

Pending before the court is Defendants' Motion to Dismiss the Claims of Plaintiffs Tim Smith ("Smith") and Deborah Mills ("Mills") based on the failure to prosecute their claims (Doc. 121). In support of their motion, Defendants allege that Smith and Mills: (1) failed to respond to Defendants' First Set of Requests for Production; (2) failed to attend their depositions; and (3) failed to keep the court apprised of current contact information. The court notes that Smith and Mills are no longer represented by counsel because of their failures to communicate with Ms. Thompson.¹

Smith and Mills failed to file any response to the motion. On August 19, 2014, the court issued an order to Smith and Mills to show cause why their claims should not be dismissed.² The order

¹ See Docs. 98, 99, Mot. to Withdraw as Counsel ; Doc. 106, Ord. Granting Withdrawal.

² See Doc. 123, Ord. to Show Cause.

warned Smith and Mills that a failure to attend the September 2, 2014 hearing may result in dismissal of their claims.³

On September 2, 2014, Smith and Mills failed to attend the hearing or otherwise respond in any fashion to Defendants' motion to dismiss. It is therefore **RECOMMENDED** that Defendants' Motion to Dismiss (Doc. 121) be **GRANTED** and that the claims of Smith and Mills be **DISMISSED**.

The Clerk shall send copies of this Memorandum and Recommendation to the respective parties who have fourteen days from the receipt thereof to file written objections thereto pursuant to Federal Rule of Civil Procedure 72(b) and General Order 2002-13. Failure to file written objections within the time period mentioned shall bar an aggrieved party from attacking the factual findings and legal conclusions on appeal.

The original of any written objections shall be filed with the United States District Clerk electronically. Copies of such objections shall be mailed to opposing parties and to the chambers of the undersigned, 515 Rusk, Suite 7019, Houston, Texas 77002.

SIGNED in Houston, Texas, this 8th day of September, 2014.



U.S. MAGISTRATE JUDGE

³

Id.